IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 14375 of 2007(J)

PETITIONER:

M.K.SIVAPRASAD, MELETHIL LAKSHMI NIVAS,
EDAYARANMULA P.O., PATHANAMTHITTA.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, REP. BY ITS SECRETARY.

2. THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, ERNAKULAM.

3. THE DISTRICT TRANSPORT OFFICER,
K.S.R.T.C., ERNAKULAM.

BY GOVERNMENT PLEADER SRI. I.V. PROMOD
SRI. K. PRABHAKARAN - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.14375 OF 2007

DATED THIS THE 24th DAY OF MAY, 2007

JUDGMENT

The petitioner applied for the grant of a regular permit on the route Amritha Hospital-Thalayolaparambu for his Stage Carriage Vehicle KL-03/B 5351 which was rejected by the R.T.A. Ernakulam. The State Transport Appellate Tribunal in M.V.A.A. No.98/07 allowed the appeal and directed the R.T.A. to grant the permit. Subsequently, the R.T.A. in its meeting held on 15.3.07 adjourned the same stating that as per Section 90(2) of the Motor Vehicles Act, when a scheme has been published, the R.T.A. can grant a permit in accordance with the scheme only and since the S.T.A.T. has not considered this specific contention, an appeal has to be filed. The petitioner is aggrieved by the said action of the R.T.A. According to the petitioner, the R.T.A. is not competent to file an appeal since as per the Act the appeal can be filed only by an aggrieved party and the R.T.A is not an aggrieved party. The petitioner therefore seeks a direction to the respondent to grant regular permit to the petitioner's Stage Carriage vehicle by implementing the order of the State Transport Appellate Tribunal.

2. The learned Government pleader on instruction submits that the possibility of filing the appeal is under consideration and therefore the permit cannot be issued now. In a similar writ petition (Civil)No.5772/07, a learned Single Judge of this Court held as follows:

> "The State Transport Appellate Tribunal, by Exhibit P1 judgment dated 23.11.2006, directed the RTA, Ernakulam, to grant permit to the petitioner on the route Kurisumudy – Angamaly – Manjikkad, subject to settlement of timings. The RTA considered the same and adjourned the application for filing appeal against the order of the STAT. Against Exhibit P1, no appeal is provided under the Motor Vehicles Act. If what is meant by the RTA is to file a Writ Petition before this Court, a petition at the instance of the RTA is not maintainable as the lower authority cannot be said to be aggrieved, if its decision faces a reversal at the hands of the STAT. In view of the above position, the first respondent is directed to implement Exhibit P1 within a period of two months from the date of production of a copy of this judgment. The above direction of this Court will not affect the right of the State Government to challenge Exhibit P1 in appropriate proceedings. If any Writ petition is filed against Exhibit P1 by the State, the grant of the permit made pursuant to this judgment will be subject to any interim order or final orders passed in that Writ petition".

3. I am in full agreement with the judgment of the learned Judge and therefore I am inclined to dispose of this writ petition also in terms of the said judgment.

4. Accordingly, I direct the 1st respondent to implement Ext.P1 judgment of the S.T.A.T. within a period of two months from the date of production of a copy of this judgment. This direction will

not affect the right of the State Government to challenge Ext.P1 in appropriate proceedings. If the State Government decides to initiate any such proceedings against Ext.P1, the grant of permit made pursuant to this judgment would be subject to any interim order or final order passed in such proceedings.

This writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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